

DENNIS A. BARLOW, CITY ATTORNEY
State Bar No. 63849
CAROL A. HUMISTON, SR. ASST. CITY ATTY
State Bar No. 115592
275 East Olive Avenue
P. O. Box 6459
Burbank, CA 91510
Tel: 818-238-5707 Fax: 818-238-5724

Kristin A. Pelletier, (SBN 155378)
E-mail: kpelletier@bwslaw.com
Robert J. Tyson (SBN 187311)
E-mail: rtyson@bwslaw.com
BURKE, WILLIAMS & SORENSEN, LLP
444 South Flower Street, Suite 2400
Los Angeles, CA 90071-2953
Tel: 213.236.0600 Fax: 213.236.2700

Attorneys for Defendant
City of Burbank

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CHRISTOPHER LEE DUNN,

Plaintiff,

v.

BURBANK POLICE DEPARTMENT,
CITY OF BURBANK, and DOES 1
Through 100, Inclusive,

Defendants.

Case No. BC 417928

Assigned For All Purposes
Hon. Alan S. Rosenfield

Action Filed: July 16, 2009
Trial Date: May 13, 2011

**DEFENDANT CITY OF BURBANK'S
OBJECTIONS TO DECLARATION OF
SOLOMON GRESEN IN SUPPORT OF
PLAINTIFF'S *PITCHES* MOTION**

Date: Aug. 20, 2010
Time: 8:30 a.m.
Dept. 31

1 Defendant City of Burbank ("City") hereby submits its Objections to the Declaration of
2 Solomon Gresen submitted in support of Plaintiff Chris Dunn's *Pitchess* Motion.

3 City hereby objects to the Declaration of Solomon Gresen in its entirety, as it proffers
4 knowledge for which Mr. Gresen lacks proper evidentiary foundation. It repeatedly makes
5 factual assertions regarding events involving his client and/or third parties for which Mr. Gresen
6 does not have personal knowledge. Only a very few such statements are actually made on
7 information and belief, making clear that the majority of the declaration improperly attempts to
8 aver personal knowledge of Mr. Gresen for which he has no evidentiary foundation. Clearly, Mr.
9 Gresen is not the proper witness to be making these statements. This declaration should have
10 been presented by plaintiff Dunn and been based upon sworn statements from his personnel
11 knowledge.

12 In addition, Mr. Gresen declares as to facts which are demonstrably false. This includes
13 his assertion that the City has "refused" to produce plaintiff's personnel file [¶ 28], when in fact,
14 plaintiff has never requested that the file be produced in this action. [Pelletier Decl., ¶ 2] It also
15 includes repeated assertions that plaintiff Chris Dunn complained to the City about purported
16 race-based remarks made by Sgt. Dan Yadon. [See e.g. ¶¶ 5 (p. 14:22-23), 15, (p. 17:16), 20-22,
17 23 (p. 19:24)] Each of these statements should be stricken because Mr. Gresen's own client has
18 testified under oath that he never made such complaint against Sgt. Yadon or against any other
19 officer, as follows:

20 Q: Did you ever make a complaint against-- I'll just go through them by
21 name--against Sergeant Yadon for the use of racial commentary?

22 A: No.

[Pelletier Decl., Ex. D, pp. 194:11-14]

23 And:

24 Q: I'm just trying to get what you communicated to [Sgt.] Duran, if anything,
25 in terms of, "I have heard in the workplace inappropriate race-based
26 comments"

27 A: Nothing.

[Id., Ex. D, pp. 198:1-4 (at end of testimony about discussing other issues about
28 Sgt. Yadon he raised with Sgt. Duran).]

And:

1 Q: Okay. And just so I'm clear, I think it's on the record, but given some of
2 your prior commentary, did you ever go to anyone—I know you didn't do
3 it in writing, but go to anyone and say, "I want to make a complaint
against," any member of the Burbank Police Department for inappropriate
racial comments?"

4 A: No.

5 Q: Did you ever go to anyone and say, "I want to make a report against," any
member of the Burbank Police Department for racial comments?

6 A: No.

[Id, Ex. D, pp. 206:3-12.]

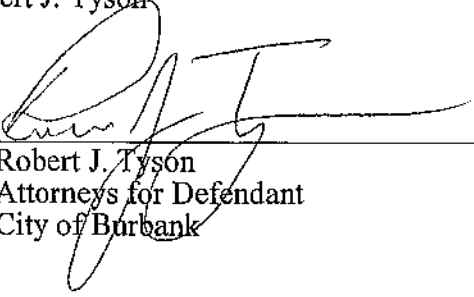
7 Mr. Gresen also declares as to both the existence and content of the confidential personnel
8 record identified as the Merich Memo [¶¶ 9-10, 13, (p. 17:2-4), 16, (p. 17:26), 19, 24-25, 32 (p.
9 21:23)], in violation of this Court's order which forbade him from disclosing or revealing said
10 document. [Pelletier Decl., Ex. C.] As such, all of these improper references should be stricken.

11 Mr. Gresen also declares (not always on information and belief) as to knowledge
12 regarding third parties for which neither Mr. Gresen nor his client have a proper evidentiary
13 foundation or reasonable belief. This includes his characterization of the CCPD's interview with
14 the informant identified as "GD" and her feelings therein and about subsequent actions [¶¶ 7-8],
15 and statements regarding a charge purportedly in another officers' personnel file that is not
16 related to the events at bar. [¶ 26] Each of these statements should be stricken for lack of a proper
17 foundation that could not be properly supported by admissible personal knowledge of either Mr.
18 Gresen or his client.

19 For all of the foregoing reasons, the declaration of Solomon Gresen should be so stricken.

20
21 Dated: August 9, 2010

Burke, Williams & Sorensen, LLP
Kristin A. Pelletier
Robert J. Tyson

22
23
24 By: 
25 Robert J. Tyson
26 Attorneys for Defendant
27 City of Burbank
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

**DEFENDANT CITY OF BURBANK'S OBJECTIONS TO
THE DECLARATION OF SOLOMON GRESEN IN
SUPPORT OF PLAINTIFF'S *PITCHES* MOTION**

Solomon E. Gresen, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436
Telephone: (818) 815-2727
Fax: (818) 815-2737

Executed on August 9, 2010, at Los Angeles, California.

JULIE D. ANDERSON